THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.23194 of 2006

DATED 24.11.2006

Between:
J.Gopala Rao. PETITIONER

Versus

Government of A.P.,
represented by its Principal Secretary,
Municipal Administration and Urban
Development, Secretariat Buildings,
Hyderabad and another and another. RESPONDENTS

WRIT PETITION NO.23194 of 2006

ORDER:

This Court ordered Notice Before Admission on 8.11.2006. Heard Sri V.Kishore, learned counsel representing the petitioner, learned Government Pleader for General Administration Department appearing for 1st respondent and Sri Polisetty Radhakrishna, learned Standing Counsel appearing for 2nd respondent.

2. The Writ Petition is filed for a Writ of Mandamus declaring the action of the 2nd respondent in keeping the application dated 11.8.2006 submitted by the petitioner for grant of permission to construct residential building in plot No.5A in RS No.218/1, Defence Colony, Malkajgiri Municipality, R.R. District pending and interfering with the construction activity as illegal, arbitrary and high-handedness and pass such other suitable orders.

3. It is stated that the petitioner purchased a residential plot No.5A through registered sale deed bearing document No.1647 of 2000, dated 31.3.2000 in RS No.218/1, admeasuring 350 square yards, situated at Defence Colony, Malkajgiri Municipality, Ranga Reddy

District, from Defence Housing Cooperative Society, registered under the Cooperative Societies Act. The layout of the Colony was approved by the Malkajgiri Gram Panchayat vide GPLP No.328/1966, dated 29.6.1966. Subsequently in the year 1981, the Gram Panchayat Malkajgiri upgraded as Municipality. The Assistant Director and Land Records, Ranga Reddy District, basing on the requisition given by the Commissioner, Malkajgiri Municipality vide Lr.No.G2/2035/97 dt. 2.7.1997, conducted survey and demarcation of boundary of Malkajgiri and Kapra village and declared that RS No.218/1 belongs to Malkajgiri Municipality. It is also stated that the petitioner intended to construct a residential building in the said plot No.5A and submitted the application before the Commissioner, Malkajgiri Municipality on 11.8.2006 under Section 209 of the A.P. Municipalities Act, 1965. The petitioner waited till 16.10.2006 for permission from the 2nd respondent. The petitioner submitted another letter intimating that the petitioner waited for the statutory period of 60 days for permission under Sections 212 and 213 of A.P. Municipalities Act, 1965 and started the construction of the residential building under Section 214 of A.P. Municipalities Act, 1965 treating it as deemed permission. Till today the 2nd respondent neither granted permission nor passed any orders of refusal. It is also stated that the petitioner started construction of the residential with great difficulty with the savings. It is further stated that as the cost of construction is day-to-day increasing, it causes the petitioner to irreparable loss and hardship. The 2nd respondent keeping pending of the application for construction permission and officers of the 2nd respondent office warned the petitioner that if the construction going on without permission, it can be demolished at any time with petitioner's costs. The petitioner started construction with prior intimation to the 2nd respondent. The action of the 2nd respondent keeping pending the application dated 11.8.2006

for grant of permission to construct the residential building is illegal and arbitrary. In such circumstances, the petitioner approached this Court.

4. In view of the facts and circumstances explained in detail, it is the bounden duty of the 2nd respondent to dispose of the application of the petitioner dated 11.8.2006 for grant of permission to construct residential building in plot No.5A of RS No.218/1, Defence Colony, Malkajgiri Municipality, Ranga Reddy District, in accordance with law. Keeping the said application pending for sufficiently a long time is definitely unjust. In view of the same the 2nd respondent herein is directed to consider and dispose of the application dated 11.8.2006 submitted by the petitioner for grant of construction of residential building in plot No.5A in RS No.218/1 of Malkaugiri Municipality, Ranga Reddy District, in accordance with law within a period of four (04) weeks from the date of receipt of a copy of this order.

5. The Writ Petition is allowed to extent indicated above. No costs.

24.11.2006

SSR